



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 02770-99

16 December 1999

HMC SW/N [REDACTED] USN  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear Chief [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 21 September 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The Board found your performance evaluation rebuttal in question was not fit for file, since it was not limited to facts, and it impugned the reporting senior's motives. They found you are entitled to no relief concerning your advancement, since you could have submitted the statement in question to any selection board before which you were eligible for consideration. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



DEPARTMENT OF THE NAVY  
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MILLINGTON TN 38055-0000

1610  
PERS-311  
21 SEP 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: HM [REDACTED], USN, [REDACTED]

Ref: (a) BUPERSINST 1616.9A, EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests that his statement to the report for the period 1 October 1992 to 30 September 1993 be accepted and filed in his digitized record.

2. Based on our review of the material provided, we find the following:

a. A review of the member's digitized record revealed the report for the period in question to be on file. The member signed the report indicating his desire to make a statement. Per reference (a), Chapter 12, paragraph 12-7, the member has two years from the ending date of the report to submit a statement if desired. A statement was received from the member but was found unacceptable for file. Pers-322 returned the statement to the member on 22 November 1993, informing the member to resubmit his statement per reference (a), Articles 12-8, 9 and 11. The member did not resubmit the statement.

b. The member alleges that the report in question has adverse marks that were politically influenced and were not consistent with his performance. The member further states that the "Transfer" evaluation he received five months later was without blemish. The member feels that the statement not being on file in his digitized record has had a significant impact on his advancement opportunities.

c. The member claims that the performance report in question is adverse. A performance report consisting of a decline in one grade does not constitute an adverse report. The report in question is not considered adverse. The grades assigned properly represent the reporting senior's evaluation of the petitioner's

Subj: HMC (SW) [REDACTED], USA, [REDACTED]

performance for a specific period of time and is not required to be consistent with previous or subsequent reports.

d. The member provides with his petition the original statement that was rejected by Pers-322, on 22 November 1993, for inclusion in his digitized record. The member's statement was and still is unacceptable for file due to not being submitted per the guidelines outlined in reference (a).

e. The member does not prove the report to be unjust or in error.

3. We recommend the member resubmit his statement per the guidelines outlined in reference (a), along with the original reporting senior's endorsement and explanation letter, explaining why the statement was not submitted in a timely manner. Upon receipt of the above, NPC will make a determination whether or not to accept the member's statement for file.

[REDACTED]

Head, Performance  
Evaluation Branch